IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO.78 OF 2007

Rangnath Nivrutti Khapale : Appellant

V/s.

The State of Maharashtra & Ors. : Respondents

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Mr.G.R.Agarwal for the appellant.

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CORAM : S.A.BOBDE, J.

DATE : AUGUST 22, 2007.

P.C.

1. This Second Appeal is preferred against concurrent findings of two Courts below that the appellant is not entitled for a permanent injunction against the State for transferring the acquired land admeasuring 2 hectares in favour of the respondent no.4. The land was acquired for rehabilitation of Hingani medium project affected persons.

2. It was the plaintiff’s case, inter alia, that he had only 1/5th share in gat no.464 and that the award is illegal because it proceeds on the basis that the plaintiff was the sole owner of the said gat no.464/1. Further that certain provisions of the Land Acquisition Act were not followed.

3. The learned Civil Judge, Senior Division, framed 17 issues and dismissed the suit. The appellate Court framed points for determination and held that the Civil Court had no jurisdiction to try the suit for setting aside the award, in view of the judgements of the Supreme Court in AIR 1995 SC 1955 and AIR 1997 SC 2076. The appellate Court nonetheless has also proceeded to consider the question whether the Land Acquisition award is null and void.

4. The appellate Court has also rejected the appellant's contention that the question of the legality of the award was adjudicated earlier in Writ Petition No.4334 of 1997 which was decided by the High Court on 14.1.1998 rejecting the challenge to the award and, therefore, the appellant is not entitled to re-agitate the question that the award is null and void.

5. In the circumstances, no substantial question of law arises for determination in the Second Appeal. The Appeal is hereby dismissed.

S.A. BOBDE, J.